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Art Unit 3637  
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From: Werner H. Schroeder  
Patent Agent  
Reg. No. 36,387

Number of pages including cover sheet: 16

Comments: Appl. NO. 10/679,469

Response to a Final Rejection

Werner H. Schroeder  
Signature

PTO/BB/21 (08-04)

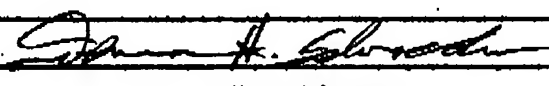
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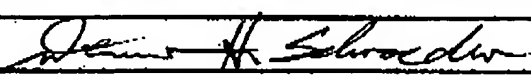
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/979,489	<b>RECEIVED CENTRAL FAX CENTER NOV 28 2005</b>
	Filing Date	10/07/2003	
	First Named Inventor	Karla T. Connolly	
	Art Unit	3837	
	Examiner Name	Timothy Michael Ayres	
Total Number of Pages in This Submission	15	Attorney Docket Number	

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input checked="" type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks Amendment after FINAL Attachment: Amended claims 1 - 50		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name			
Signature			
Printed name	Werner H. Schroeder		
Date	11/28/05	Reg. No.	36,387

CERTIFICATE OF TRANSMISSION/MAILING FAX	
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Date	11/28/05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## **Response to a second and Final Office Action**

**Application SN. 10/679,469**

This communication is a response to a Final Office Action having a mailing date of 11/17/2005 and setting forth a shortened statutory period for response of three months which would expire on 02/17/2006.

In response to the Office Action the applicant will follow the examiner's paragraphs as they appear in the action:

Under the heading DETAILED ACTION, the examiner states that "this is the final office action on the merits".

The applicant lodges a protest that this action was made **FINAL**:

1). The examiner has cited a new reference in rejecting claims 6 - 10, 12, 13 15, 16, 22, 23, 25, 27, 32, 33, 36, 45, and 46. The citation of the new reference was not amendment provoked and therefore, the action should not been made final. The examiner has raised a new issue.

2). The examiner has rejected claims 1, 14, 17 - 20, 28 - 31, 34, 35, 37, 39, 41, 42 and 47 - 50 under the judicially created doctrine of non-statutory double patenting.

This issue is being raised for the first time and, therefore, the action should not have been final.

1. the claim objections have been considered and have been corrected.

2 -10. The claims rejected under 35 U.S.C. 112 have been corrected.

11 - 13. Claims 5 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen in view of Briggs. The examiner admits that Jensen does not expressly disclose the children's play area as a platform that is suspended from vertical columns and having play devices on it. The examiner then cites "Webster's II Riverside Dictionary to interpret applicant's claiming of the play devices being on the platform.